

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RODNEY GAINES,)	Case No. CV 14-1509-TJH (JPR)
)	
Plaintiff,)	
)	ORDER TO SHOW CAUSE RE DISMISSAL
vs.)	FOR FAILURE TO PAY INITIAL
)	PARTIAL FILING FEE
COUNTY OF LOS ANGELES et)	
al.,)	
)	
Defendants.)	

On April 2, 2014, Plaintiff was granted permission under 28 U.S.C. § 1915(b)(1) to file the above-referenced action without paying the full filing fee of \$350, but he was ordered to pay an initial partial filing fee, in the amount of \$9.60, within 30 days to the Clerk of Court. To date, the payment has not been received.

Under the Prison Litigation Reform Act, all prisoners who are granted in forma pauperis status to file their civil rights actions must nonetheless pay the full amount of the filing fee. Id. For prisoners unable to pay the filing fee at the time of filing, the statute provides for the assessment and, "when funds exist," the collection of an initial fee equal to 20 percent of the greater of the prisoner's average monthly account balance or

1 monthly deposits for "the 6-month period immediately preceding
2 the filing of the complaint or notice of appeal." Id. After
3 payment of the initial fee, the prisoner must make monthly
4 payments equal to 20 percent of the preceding month's income
5 credited to the account, to be forwarded when the prisoner's
6 account balance exceeds \$10. § 1915(b)(2). Under the PLRA's
7 "safety-valve" provision, a prisoner cannot "be prohibited from
8 bringing a civil action . . . for the reason that the prisoner
9 has no assets and no means by which to pay the initial partial
10 filing fee." § 1915(b)(4).

11 Under the safety-valve provision, a court may not dismiss
12 the lawsuit of a prisoner whose funds become depleted after the
13 initial partial filing fee is assessed and who can no longer pay.
14 Taylor v. Delatoore, 281 F.3d 844, 850-51 (9th Cir. 2002). In
15 all other circumstances, however, a court may dismiss a
16 prisoner's civil rights action for failure to pay the initial
17 partial filing fee (or indeed any portion of the full fee). See
18 Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir. 1995) (upholding
19 dismissal of action for failure to pay initial partial filing fee
20 when prisoner had enough money to buy "name brand toiletries" and
21 snacks).

22 Plaintiff has not complied with § 1915(b)(1) and is hereby
23 ORDERED TO SHOW CAUSE why this action should not be dismissed for
24 Plaintiff's failure to timely pay the initial partial filing fee.

25 Plaintiff must file a response to this Order to Show Cause
26 no later than 20 days from the date of this Order. Failure to
27 file a response within the time specified may result in dismissal
28 of this action. If the initial partial filing fee is received by

1 the Court within the 20-day period, no further response to this
2 Order to Show Cause is necessary. If Plaintiff claims that he no
3 longer has the funds in his prison account to pay the initial
4 partial filing fee, he must submit an updated copy of his prison
5 trust statement showing his deposits, withdrawals, and balance
6 for the past six months.

7
8 DATED: February 17, 2015


9 JEAN P. ROSENBLUTH
U.S. MAGISTRATE JUDGE